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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/726,166	11/29/2000	Robert Barritz	P/1318-119	1178
2352	7590	01/10/2005	EXAMINER	
OSTROLENK FABER GERB & SOFFEN 1180 AVENUE OF THE AMERICAS NEW YORK, NY 100368403			GREENE, DANIEL L	
			ART UNIT	PAPER NUMBER
			3621	

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GROUPE 1/10/05

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/726,166
Filing Date: November 29, 2000
Appellant(s): BARRITZ ET AL.

Max Moskowitz
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 10/27/2004.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

The brief does not contain a statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief. Therefore, it is presumed that there are none. The Board, however, may exercise its discretion to require an explicit statement as to the existence of any related appeals and interferences.

A statement identifying the related appeals and interferences, which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

Appellant's brief includes a statement that claims 1-40 stand or fall together.

(8) Claims Appealed

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

5,579,222	Bains et al.	11*1996
5,892,900	Ginter et al.	3-1999

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bains et al. U.S. Patent 5,579,222[Bains] and further in view of Ginter et al. U.S. Patent 5,892,900 [Ginter]. This rejection is set forth in a prior Office Action, mailed on 1/9/2004.

The Appellant submits that Claims 1-40 stand or fall together. Therefore, the Examiner will respond to the two independent claims, 1 and 17 because, if the independent claims are not allowable, the dependent claims contain the same non-allowable limitations as their respective independent claims. Claim 17 has the same limitations as Claim 1 such that the Examiner will only address the limitations of Claim 1 that are the same limitations of Claim 17.

As per claim 1:

Bains discloses:

a license manager that internally monitors use of licensed property, intended to be used by licensed users, and gathers data on the usage of the licensed property

including by reference to a plurality of licensors of the license property; Fig. 1, Col. 5, lines 28-35, Col. 7, lines 17-Col. 8, line 52.

Bains discloses the claimed invention except for monitoring software that interfaces with the license manager and extracts from it licensor specific data and authenticates the retrieved data such that licensors are assured, based on a set of license-specific rules, that data gathered by the license manager has not been altered or improperly deleted prior to its being provided to licensors.

Ginter teaches that it is known in the art to provide a monitoring software that interfaces with the license manager and extracts from it licensor specific data and authenticates the retrieved data such that licensors are assured, based on a set of license-specific rules, that data gathered by the license manager has not been altered or improperly deleted prior to its being provided to licensors. Fig. 86 and associated text (Col. 340-342, lines 1-67), Col. 21, line 41-Col. 22, lines 25.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a license manager that internally monitors use of licensed property, intended to be used by licensed users, and gathers data on the usage of the licensed property including by reference to a plurality of licensors of the license property of Bains with the monitoring software that interfaces with the license manager and extracts from it licensor specific data and authenticates the retrieved data such that licensors are assured, based on a set of license-specific rules, that data gathered by the license manager has not been altered or improperly deleted prior to its being provided to licensors of Ginter, in order to prevent the data gathered by the

license manager has not been altered or improperly deleted prior to it being provided to licensors.

(11) Response to Argument

Appellant's arguments filed 10/27/2004 have been considered but they are not persuasive.

The Appellant has presented 2 issues.

Issue 1

The Appellant argues, " But no license manager is known or described in any of the two references of record which "gathers data and usage of the licensed property ...by reference to a plurality of licensors of the licensed property"". The Examiner disagrees and directs the Appellant to Bains Fig. 1, and the associated text at Col. 5, lines 28-35: "... running a variety of software products, such as PDS (item 12a), EMS (item 12b), and so forth (shown through item 12j)." As is evident from Fig. 1, and the cited text, a plurality of such hardware products may be controlled by a license manager/monitor. Further, the Bains text discloses that multiple "licensing systems" may be referenced by this license manager/monitor. Col. 7, lines 17-19, that the licensed products thus controlled may comprise "various software products", Col. 7, lines 21-23, Fig. 2, item 26, that the system will pick which licensing system to access "depending on the software product ... and information in the policy server database". Col. 7, lines 28-30. In addition, Figs. 2-6 and associated text, Col. 7, line 17-Col. 8, line 52, support

the supposition that Bains invention envisions a license manager/monitor that will control, gather data, and report on multiple licensed properties to a plurality of licensors.

Issue 2

The Appellant argues, "Neither of the two references cited by the Examiner provides a special "monitoring software" that interfaces with the license manager and extracts from it "licensor-specific data" and/or which then authenticates the retrieved data "based on a set of licensor-specific rules". The Examiner disagrees and submits that a license compliance verification system/method comprising a license manager that internally monitors the use of licensed property is disclosed by Bains (all above citations) and Ginter, Fig. 86, Col. 339-342, lines 1-67, titled, "Example-Distribution of Content Control Information Within an Organization". Ginter, Col. 21, line 41-Col. 22, line 25, further discloses internally monitoring use of licensed property intended to be used by licensed user, and gather data on the usage of the licensed property including by reference to a plurality of licensors of the license property, and monitoring software that interfaces with the license manager and extracts from it licensor-specific data and authenticates the retrieved data such that licensors are assured, based on a set of license-specific rules, that data gathered by the license manager has not been altered or improperly deleted prior to its being provided to the licensors.

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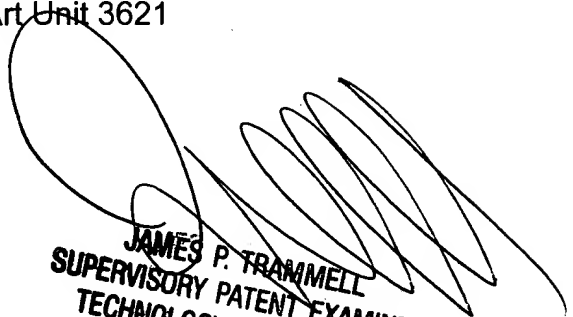
For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Daniel L. Greene
Examiner
Art Unit 3621

DLG
January 4, 2005

Conferees
Tariq R. Hafiz
James P. Trammell



JAMES P. TRAMMELL
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3800

OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8403